

**BEFORE THE DELAWARE CONTROLLED SUBSTANCE
ADVISORY COMMITTEE**

In Re:	EMERGENCY RULE)	Recommendation
	ADOPTION PLACING)	
	MEPHEDRONE, METHYLONE,)	
	AND MDPV IN SCHEDULE I)	

NATURE OF THE PROCEEDINGS

Pursuant to due notice, a special meeting was held of the Delaware Controlled Substance Advisory Committee (“Committee”) on September 30, 2011 concerning the substances mephedrone, methylone, and methylenedioxypyrovalerone (MDPV).

SUMMARY OF THE EVIDENCE

The Committee reviewed the Federal DEA Notice of Intent to place these three substances in schedule I on an emergency basis published in the Federal Register.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

16 *Del. C.* § 4713 establishes that “[t]he Secretary [of State] shall place a substance in Schedule I if the Secretary finds that the substance: (1) Has high potential for abuse; and (2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.” Further, emergency regulations may be promulgated pursuant to the Administrative Procedures Act, so long as an agency determines there exists “an imminent peril to the public health, safety or welfare.” 29 *Del. C.* § 10119. Such a regulation will only be effective for a maximum of 120 days, but may be renewed once for an additional period of sixty days. 29 *Del. C.* § 10119(3). The Uniform Controlled Substance Act Regulations also directly address the adoption of emergency regulations. Specifically, the regulations state at 6.3:

If the Secretary of State, *upon the recommendation of the Committee*, finds that an imminent peril to the public health, safety or welfare requires adoption of a regulation upon fewer than twenty (20) days notice and states in writing his/her reasons for that finding, the Secretary of State may proceed without prior notice or hearing or upon any abbreviated notice and hearing he/she finds practicable, to adopt an emergency regulation. Such rules will be effective for a period not longer than 120 days, but the adoption of an identical rule under the procedures discussed above is not precluded.

The Committee finds that allowing the substances mephedrone, methylone, and methylenedioxypyrovalerone (MDPV) to remain unscheduled in the state of Delaware presents an imminent peril to the public health safety and welfare. In reaching this finding, the Committee relies on the information contained within the DEA published emergency regulation.

RECOMMENDATION

In order to protect the public and address this peril, the Committee recommends an emergency regulation be adopted in some manner as the following:

Following the existing rule 7.2.1, insert a new rule 7.3:

7.3 Pursuant to 16 Del. C. § 4713 the Secretary of State finds that mephedrone, methylone, and methylenedioxypyrovalerone (MDPV) have high potential for abuse; have no accepted medical use in treatment in the United States or lack accepted safety for use in treatment under medical supervision, and therefore:

7.3.1 The Secretary of State, as authorized by 16 Del. C. § 4713 does hereby add by rule mephedrone, methylone, and

methylenedioxypropylvalerone (MDPV) in Schedule I of the Uniform
Controlled Substances Act, 16 Del. C. Ch. 47.

IT IS SO RECOMMENDED this 30th day of September, 2011.

BY THE DELAWARE CONTROLLED SUBSTANCE ADVISORY COMMITTEE

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